

Adult Entertainment
Rules and Regulations
for the
Board of Liquor License Commissioners
for
Baltimore City

Revised July 2015

BOARD OF LIQUOR LICENCE COMMISSIONERS
FOR BALTIMORE CITY

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TO ALL LICENSEES:

This book is published by the Board of Liquor License Commissioners for Baltimore City
to acquaint all licensees, their employees, and the general public
with the Rules and Regulations governing the operation of adult entertainment establishments in
Baltimore City.

All adult entertainment licensees and their employees are responsible to abide by these Rules.

Benjamin Neil, Esquire

Chairman

Douglas Trotter
Commissioner

Harvey Jones
Commissioner

Michelle Bailey-Hedgepeth
Executive Secretary

Thomas R. Akras
Deputy Executive Secretary

As authorized by Art. 2B §12-203.1, the regulatory authority over adult entertainment licenses has been vested in the Board of Liquor License Commissioners for the City of Baltimore (“Board”). The City of Baltimore through Balt. City Code Art. 15 §1 has outlined the processes for licensing, standard of operations, and administrative sanctions, which guide the Board’s decision making process concerning adult entertainment licenses. Both through State and local law, the Board has been authorized to adopt rules and regulations to carry out the operations of adult entertainment licenses in Baltimore City.

Chapter 1 Definitions Terms, and Adopting Rules and Regulations

Rule 1.01 Definitions (As per Balt. City Code Art. 15 §1-1)

§ 1-1. Definitions.

(a) **Adult entertainment** means live entertainment, (i) in which individuals appear for public view in a state of nudity or partial nudity; (ii) that is intended to provide sexual stimulation or sexual gratification; (iii) that is distinguished or characterized by an emphasis on material that depicts, describes, or relates to:

(I) Human genitals in a discernible state of sexual stimulation or arousal; or

(II) Acts of human masturbation, sexual intercourse, sodomy, or physical contact with an individual’s clothed or unclothed genitals, pubic area, buttocks, or, if the individual is female, breast; or

(III) that, applying contemporary standards, the average individual would find, taken as a whole, appeals to the prurient interest.

(b) **Adult-entertainment business**, means any cabaret, lounge, night club, modeling studio, or other establishment that offers its customers adult entertainment.

(c) **Board**, means the Board of Liquor License Commissioners for Baltimore City.

(d) **Dancer**, means and includes: (i) any person who, whether as an employee, an independent contractor, or an invitee of the business who provides adult entertainment; and (ii) any hostess, entertainer, bartender, or patron who appears nude or partially nude.

(d) **Includes** or **Including** means by way of illustration and not by way of limitation

(e) **Liquor License Rules and Regulations**, means the Liquor License Rules and Regulations as issued by the Board of Liquor License Commissioners for Baltimore City.

(f) **Nudity**, means: (i) the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; (ii) the showing of the female breast with less

than a fully opaque covering over any part below the top of the nipple; or (iii) the depiction of covered male genitals in a discernibly turgid state.

(g) **Partial nudity**, means a state of dress in which opaque clothing covers no more than: (i) the human male or female genitals, pubic area, or buttocks; (ii) the female breasts below the top of the nipples; and (iii) portions of the body covered by supporting straps or devices.

(h) **Patron**, means any customer, client, or other invitee on the premises of adult-entertainment business.

(i) **Person**, generally means: (a) an individual; (b) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or (c) a partnership, firm, association, corporation, or other entity of any kind.

(I) “**Person**” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

Rule 1.02 Mandatory, prohibitory, and permissive terms.

(a) **Mandatory terms**: “Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(b) **Prohibitory terms**: “Must not” and “may not” are each mandatory negative terms used to establish a prohibition.

(c) **Permissive terms**: “May” is permissive.

Rule 1.03 Rules and Regulations

(a) **Board to Adopt**: The Board may adopt rules, regulations, and forms to carry out the provisions of Balt. City Code Art. 15 §1 and Art. 2B §12-203.

(b) **Advertising for Hearing and Comment**: The Board must advertise for public hearing and comment all rules and regulations proposed for adoption as detailed and in accordance with Balt. City Code Art. 15 §1-3.

(c) **Adoption of Rules And Regulations**: (i) After the public hearing, the Board may adopt the final rules and regulations with an effective date of at least 15 days after the date of their adoption; and (ii) a copy of the rules, regulations, and forms and of any amendments to them must be filed with the Department of Legislative Reference before they may take effect.

Chapter 2 Licensing, Renewal, Fees, and Transfers

Rule 2.01 License Required

(a) A person may not own or operate any adult entertainment business without having first obtained an adult entertainment business license as provided in Balt. City Code Art. 15 §1.

Rule 2.02 Applications

(a) **Owner and Operator Application:** The owner and operator of the adult entertainment business must apply jointly to the Board for the license.

(b) **Form:** The application must be in the form and contain the information that the Board requires.

(c) **When Made:** (i) An application for an adult entertainment business license must be made on or before the date of applying for the conditional-use approval required under the Zoning Code; and (ii) the adult entertainment business license may not become effective unless a conditional use has been approved and any right of appeal contesting that approval has been exhausted.

(d) **By Whom Made:** The application of every owner and operator must be made as follows:

- (i) if a corporation, by its chief executive officer;
- (ii) if a partnership, by its managing partner; or
- (iii) if a proprietorship, by its owners.

(e) **Information and Determination:** All information required in the application about an applicant must be given with respect to the individuals making the application, and the determination of the Board must be based on the eligibility of those individuals.

(f) **Investigation of applicants:** On receipt of the application, the Board must investigate the character and qualifications of the applicant

(g) **Qualifications:** In general:

(i) An adult entertainment business license may not be issued to any person to own or operate an adult-entertainment business unless the applicant:

(I) based on the considerations specified in section (g)(i)(I)(a) of this subsection, is of good moral character.

(a) In determining moral character, the Board must consider:

(A) all criminal convictions of the applicant; and

(B) the business history of the applicant

(ii) is at least 18 years of age

(iii) within the preceding 3 years, has not been convicted of or pleaded guilty or nolo-contendere in any jurisdiction to a felony involving:

(a) moral turpitude;

(b) controlled dangerous substances;

(c) prostitution;

(d) obscenity; or

(e) any other crime that is sexual in nature

Rule 2.03: Hearings; Posting; Objections

(a) Posting Required: On filing an application for a license (other than a renewal license) and the payment of the application fee of \$500.00 the proposed premises will be posted for 15 days advertising the applicant's application to the Board.

(b) 9 or fewer objections: If, within the 15 day posting period, the Board receives no more than 9 written objections from property owners or residents within the same election precinct as the proposed location, the adult-entertainment business license may be issued.

(c) 10 or more objections: If, within the 15 day posting period, the Board receives 10 or more written objections from property owners or residents within the same election precinct as the proposed location, the Board must hold a hearing on the matter.

(i) Unless the applicant agrees to a later date, the hearing must be held within 15 days after the last day of the 15 day posting period.

(ii) At the hearing, parties in interest and citizens must be given an opportunity to be heard.

Rule 2.04: Decision on Application

(a) Board to Decide: The Board must notify the applicant in writing of its decision to grant or deny the license as follows:

(i) If no hearing is held under Rule 2.03 of these Rules and Regulations, within 15 days after the last day of the 15 day posting period; and

(ii) If a hearing is held under Rule 2.03 of these Rules and Regulations, within 15 days after the conclusion of the hearing.

(b) Denial

(i) Any denial of an adult-entertainment business license must be based solely on the qualifications set forth in Rule 2.02(g) of these Rules and Regulations.

(ii) The notice of denial must specify the reasons for denial and notify the applicant of the opportunity to request a hearing. Upon request made by the applicant for a hearing concerning his/her denial, the Board shall schedule a hearing within 30 days for reconsideration of the applicant's request, unless the applicant agrees to a later date.

Rule 2.05: Term and Renewal of License

(a) **Term:** Each adult-entertainment business license expires annually on June 30 and is renewable as provided in this section.

(b) Application for renewal.

(1) To renew an adult-entertainment business license, the licensee must apply no less than 30 days nor more than 60 days before the license expires.

(2) The renewal application must be in the form and contain the information that the Board requires.

(c) **Approval:** On filing the renewal application and payment of the renewal fee, the Board may approve the application, except as provided in subsection (d) of this section.

(d) Protest and hearing.

(1) If, before the end of the renewal period, 10 or more written objections from property owners or residents within the same election precinct as the licensed premises are filed with the Board, the Board must hold a public hearing on the proposed renewal.

(2) Parties in interest and citizens must be given an opportunity to be heard.

(3) Any denial of a renewal license must be based solely on the standards set forth in Balt. City Code Art. 15 §1-28.

Rule 2.06: Fee for License and Late Renewal Application Fees

(a) **Annual fee:** The annual license fee is \$1,000 for each adult-entertainment business, payable on or before June 30 of each year.

(b) **Initial fee:** The license fee for less than a full initial year is prorated quarterly.

(c) **Late Renewal Fee:** If a licensee fails to file his/her renewal application before or on June 30 of each year, then he/she shall pay a \$50 fine for each business day the renewal application has not been submitted to the Board, after the 30th of June. The total fine is not to exceed \$1,500.00.

Rule 2.07 Waiting period after denial.

(a) If the Board denies an adult-entertainment business license or renewal license, the applicant may not reapply for at least 9 months from the date of the Board's final decision or, if that decision was appealed, from the date of the final court decision.

Rule 2.08 Transfer of license.

(a) An adult-entertainment business license is not transferable to a new owner or operator without a new the Board.

Chapter 3 Standards of Operations

Rule 3.01 Hours of Operation

(a) In general, except as provided in subsection (b) of this section, no live adult entertainment may be conducted between the hours of 2 a.m. and noon.

(b) Exception: If the State changes the closing time for holders of alcoholic beverage licenses, that closing time will apply to adult-entertainment businesses.

Rule 3.02 Entrances and exteriors of premises

(a) **Exterior entrance doors:**

(i) must be kept closed so that adult entertainment activities are not visible from the exterior of the building; and

(ii) may be opened only: (1) to permit entry and exit; or (2) for cleaning or ventilation during nonoperational hours.

(b) **Entertainment not to be visible from exterior:** The conduct of adult entertainment may not be visible at any time from the exterior of the premises in which it is conducted.

(c) **Enclosed vestibule or lobby:** The premises of each adult-entertainment business must have a vestibule or lobby enclosed by immobile walls and consisting of a passage, hall, or room between the outer door facing the street and the part of the premises where the adult entertainment is conducted.

Rule 3.03 Barking

(a) Any attempt to urge, invite, or entice people to enter the premises of an adult-entertainment business is prohibited anywhere within 50 feet of the premises.

Rule 3.04. Owner to Prevent Nuisance.

(a) Every owner, operator, and manager of an adult-entertainment business must exercise proper care and control to prevent the business or its operations from becoming or creating a public nuisance, whether by the generation of noise, the blocking of public ways, or otherwise.

Rule 3.05 Incorporation of Liquor License Rules and Regulations to Applicable Licensees

(a) All licensees that have been issued a liquor license and adult entertainment license shall abide by and follow all rules and regulations listed in Chapter 3 and Chapter 4 of Liquor License Rules and Regulations in the operation of their adult entertainment license.

(b) Licensees that have only been issued adult entertainment licenses by this Board shall abide by and follow the Rules and Regulations set forth herein.

Rule 3.06 – Ownership and Operation

(a) Every licensee shall be the actual owner and operator of the business conducted on the licensed premises. The identity of any person, not a licensee, having any financial interest in said business shall be disclosed to the Board in writing.

Rule 3.07 - Cooperation

(a) Licensees shall cooperate with representatives of the Board, agent or employee of the Police Department, Health Department, Fire Department, Building Engineers office, Grand Jury and representatives of other governmental agencies whenever any such persons are on official business.

Rule 3.08 – Signs and Hours of Operations

(a) Licensees shall indicate by a sign or by legible lettering at least two inches in height upon the outside of the licensed premises, the names of all licensees, as said names appear on the license.

(b) All signage, including exterior signage, must conform to Section 11 of the City of Baltimore's Zoning Code.

(c) All licensees should have a copy of their license issued by the Board in a framed and/or displayed in an area that is visible to the general public. Upon request, by an inspector or any other applicable State or City of Baltimore Police Officer, the licensee shall present the license.

(d) All establishments must post their days and hours of operation on a window or door, in full view. Licensee must contact the Board and provide the Board the new hours of operation if they change.

Rule 3.09 – Lightning

(a) Licensees shall have every portion of their licensed premises, which is open to the public, illuminated by sufficient natural or artificial lighting to insure clear visibility and to permit patrons to read a menu or newsprint.

Rule 3.10 – Sanitation and Safety

(a) Licensees shall operate their establishments at all times in accordance with the laws, rules, and regulations of the Department of Housing and Community Development, Baltimore City Police Department, and the rules and regulations of the Fire Department of Baltimore City.

(b) Licensees shall provide containers for the disposition of garbage and refuse material that conform with the requirements of the Bureau of Sanitation of Baltimore City, shall keep such containers covered at all times, and shall remove all refuse material regularly to avoid accumulation.

Rule 3.10 – Rest Room Facilities and Health Regulations

(a) Licensees shall provide on the licensed premises adequate, sanitary and fully functioning restroom facilities for all patrons.

(b) Licensees shall be in compliance with all applicable State, County, and local Department of Health laws, rules, and regulations.

Rule 3.11 – Communications

(a) Licensees shall provide the Board with an operating and functional telephone number, email address, and fax number (if applicable) which the Board will use to maintain communications with the licensee.

Rule 3.12 – False Statements

(a) Neither an applicant for a license, nor a licensee is permitted to make any false statement, material or otherwise, in any original application for an adult entertainment license, renewal application, letter or written statement, in testimony before the Board or to any other representative of the Board who may be conducting an official investigation.

Rule 3.13 – Discrimination

(a) A licensee, his/her agent(s) and/or employee(s) may not directly or indirectly refuse, withdraw from, or deny to any person the services, accommodations, advantages, facilities and privileges offered on said licensee's premises on the grounds of race, creed, religion, physical or mental handicap, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation, gender identity or expression thereof, or personal appearance, except that reasonable dress codes may be utilized where posted notice is given.

Rule 3.14 – Gambling

(a) Except when specifically authorized by law, a licensee, his or her agent(s) and/or employee(s) must not allow the licensed premises to be used for the purpose of bookmaking or gambling in any form.

Rule 3.15 – Drugs and Illegal Narcotics

(a) A licensee, his or her agent(s) and/or employee(s) must not permit the licensed premises to be used for the sale, transfer, accommodation for the sale or transfer, or possession of any controlled dangerous substance as defined by the Annotated Code of Maryland.

(b) A licensee, his or her agent(s) and/or employee(s) must not use, possess, sell or allow to be used, dispensed, or sold on the licensed premises any type of illegal drugs or narcotics.

Rule 3.16 – Sexual Practices and Obscenity

(a) No licensee shall permit or suffer his premises to be used for the purpose of any sexual activity, nor shall any licensee or suffer any employee, patron or frequenter to solicit any person for prostitution or other immoral purposes.

(b) Prohibited Touching

(i) **By Patrons:** No patron may touch a dancer's: (1) breast or chest; (2) genitals or genital area; or (3) anus, anal area or buttocks.

(ii) **By Dancers to other Dancers:** No dancer may touch any other dancer's: (1) breast or chest; (2) genitals or genital area; or (3) anus, anal area or buttocks.

(iii) **By Dancers to Patrons:** No dancer may touch a patron's (1) breast or chest; (2) genitals or genital area; or (3) anus, anal area or buttocks.

(c) Prohibited Conduct on Premises

(i) An adult entertainment business may not permit any of the following on the premises, whether by dancers, patrons, or otherwise:

(a) any acts or acts which simulate of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law; or

(b) caressing, fondling, or touching the breast or chest, genitals or genital area, or anus, anal area, or buttocks of any other person, whether clothed or unclothed; or

(c) permitting any person to use artificial devices or inanimate objects to depict, perform or simulate any activity prohibited by section (c)(i)(a)-(b).

(d) No licensee shall permit or suffer his premises to become a disorderly house.

Rule 3.17 – Illegal Conduct

(a) No licensee shall commit or allow the commission on his premises of any act which shall be contrary to any federal, state or local statute, law or ordinance or against the public peace, safety, health, welfare, quiet or morals.

(b) No licensee shall commit, allow, or facilitate an environment where the commission on his premises of any act of violence shall be contrary to any federal, state or local statute, law or ordinance or against the public peace, safety, health, welfare, quiet or morals.

Rule 3.18 – Alterations

(a) No license holder shall make any alteration or additions to a licensed premises or change the manner in which alcoholic beverages are dispensed without first obtaining permission from the Board.

(b) No licensee shall make installations or alterations on the licensed premises until all the necessary permits have been obtained, approved, and use permits issued from all of the applicable agencies within the City of Baltimore, which include, the Department of Housing and Community Development of Baltimore City, the Baltimore City Fire Department and Baltimore City Health Department.

(c) All approved plans must be completed within six months of the date of approval by the Board; failure to do so rescinds authorization previously granted.

(d) In the event a licensee decides to significantly alter the mode of operation and the format of presentation of alcoholic beverages to the public from that contained in the original application approved by the Board at the time of issuance of the license, such change must first be presented to the Board for approval. Changes in the mode of operation would include but not limited to, entertainment, alteration of physical premises, presentation of food, alcoholic beverages, seats, physical environment both inside and outside of the licensed premises.

(e) The intent of this section is that when a license deviates from the original application, as issued, the changes in the mode of operation must be reviewed so consideration can be given to the testimony presented on the original application by the parties of record so as to have assurances that the best interest of the public is accommodated and the operation of the business to be conducted under the license does not adversely impact or unduly disturb the community and further that it is harmonious to the peace, health, welfare, and safety of the residents of the City.

Rule 3.19 – Gifts

(a) A licensee, his/her agent(s) and/or employee(s) must not give or otherwise transfer to any member of the Board or any of its agents or employees, directly or indirectly, any commission, remuneration, or gift except as provided by the Ethics Law, Article 8 of the Baltimore City Code.

Rule 3.20 Minimum Age of Dancer

- (a) All dancers in adult entertainment establishments must be at least 18 years old
- (b) At any time a Board inspector or law enforcement agent can request, and the adult entertainment licensee shall provide a copy of records containing the legal names, aliases, addresses, ages, and the last four digits of the respective Social Security Numbers of all dancers employed by them. Such records shall open for inspection at all times by duly authorized representatives of the Board, the Police Department of Baltimore City, and other governmental agencies.

Rule 3.21 Location of Performance

- (a) A dancer may not perform or otherwise appear nude unless the dancer:
- (i) is on a stage that is raised at least 18 inches above floor level; and
 - (ii) except as provided in subsection (b) of these rules, is at least 3 feet from the nearest patron.

(b) An adult entertainment business lawfully operating as of October 14, 1999 need not modify its current layout to conform to the requirement of subsection (a)(ii) of this rule. However, if a business renovates or substantially alters the layout of the licensed premises, the new layout must be made to conform to the requirement of subsection (a)(ii) of this rule.

Rule 3.22 Posting of Prices

(a) The prices of all alcoholic beverages must be posted in a visible area.

Chapter 4 Administrative Sanctions

Rule 4.01- Denial, Suspension, or Revocation

(a) In general: The Board may deny, suspend, or revoke an adult-entertainment business license or renewal license for any of the following causes:

- (i) Failing to pay the applicable license fee on or before the due date;
- (ii) Making any material false statement in any application for an initial or renewal license;
- (iii) Lack of accessibility for fire and police protection;
- (iv) Failing to comply with any provision of the Building, Fire, and Related Codes of Baltimore City, the Health Code of Baltimore City, or the Zoning Code of Baltimore City.
- (v) Failing to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle; or
- (vi) Failing to comply with any provision of any other local, state, or federal law that affects or relates to the operation of the adult-entertainment business.

(b) Offenses by owner, operator, or manager: The Board also may deny, suspend, or revoke an adult-entertainment business license or renewal license for the violation, by any owner, operator, or manager of the adult-entertainment business, of any provision of any local, state, or federal law that involves:

- (i) the manufacture, distribution, possession, or administration of controlled dangerous substances;
- (ii) prostitution, sodomy, perverted sexual practices, or a bawdy house or disorderly house; or
- (iii) obscene matter or immoral practices.

(c) **Offenses by employee, etc., or vendor:** The Board also may deny, suspend, or revoke an adult-entertainment business license or renewal license for the violation, by any employee, agent, independent contractor, or vendor of the adult-entertainment business, of any law referred to in subsection (b) of this section, if:

- (i) the offense occurred on the premises of the adult-entertainment business; and
- (ii) either:
 - (1) the owner, operator, or manager affirmatively or tacitly approved of the offense;
 - (2) the owner, operator, or manager had actual or constructive knowledge of the offense;
 - (3) the owner, operator, or manager reasonably should have known of the offense;or
- (4) the offense was a result of the owner, operator, or manager's failure to supervise.

Rule 4.02- Fines

(a) For any violation that is cause for suspending or revoking a license, the Board may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

- (i) for a 1st offense, not more than \$500; and
- (ii) for any subsequent offense, not more than \$1,000.

Rule 4.03 - Notice and hearing

(a) **In general:** No adult-entertainment business license or renewal license may be denied, suspended, or revoked and no fine may be imposed unless the Board gives the applicant or licensee:

- (i) at least 10 days' written notice of the intent to impose sanctions; and
- (ii) an opportunity to be heard as to why sanctions should not be imposed.

(b) **Denial of initial license:** For the proposed denial of an initial license, a hearing must be held within 30 days of a timely request, unless the applicant agrees to a later date.

Rule 4.04 – Judicial and Appellate Review

(a) **Judicial review:** A person aggrieved by a decision of the Board may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) **Review to be expedited:** (i) It is the desire and intent of the Mayor and City Council that any review under this section be heard and decided by the Court as expeditiously as possible; and (ii) to that end, the Board must join in any motion by the appellant for expedited review and cooperate fully with the appellant to obtain an expedited review.

(c) Stays:

(a) The filing of a petition for judicial review does not stay the decision of the Board.

(b) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(d) **Appellate review:** A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.